IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1662 OF 2006

Arvind Loonkaranji Chhajer ...Petitioner

V/s.

Vinit Trading Company & Anr. ...Respondents

ALONGWITH

CRIMINAL WRIT PETITION NO.1664 OF 2006

Arvind Loonkaranji Chhajer ...Petitioner

V/s.

Vinit Textiles Mills & Anr. ...Respondents

ALONGWITH

CRIMINAL WRIT PETITION NO.1665 OF 2006

Arvind Loonkaranji Chhajer ...Petitioner

V/s.

B.M. Sales Corporation & Anr. ... Respondents

Mr.Ganesh K. Gole for Petitioner.
Mr. Y.S. Shinde, APP for the State in Writ Petition Nos.1662/06 and 1664/06.
Mr.Y.M. Nakhawa APP for the State in Writ Petition No.1665/06.

CORAM : V.M. KANADE, J.

DATED : 16th AUGUST, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned APP for the State.

2. Petitioner is challenging the order passed by the Judicial Magistrate, First Class at Ichalkarnji in a complaint filed by the Respondent No.1 for the offences punishable U/s.138 r/w 141 of N.I. Act and under various provisions of IPC. In the said complaint, an order came to be passed directing the police to investigate U/s.156(3) of Cr.P.C. and submit report to the Court.

3. It is submitted by the learned counsel for the Petitioner that no averments have been made in the complaint directing any act or action on part of the Petitioner herein. It is submitted that he is not involved in any manner in issuing cheque. Further, it is submitted that he is not a signatory of the said cheque. Even if the averments are made in the complaint, no case is made out for directing the police to investigate U/s.156(3) of Cr.P.C. The Petitioner had filed revision application in the Sessions Court which was dismissed by the judgment and order dated 13/2/2006.

4. I have perused the impugned order. Sessions Court has come to the conclusion that in any case, at least, offence of cheating punishable U/s.420 of IPC is made out against the accused person and

therefore, the order passed by the Magistrate was confirmed. In my view, the Magistrate is empowered to direct the police to investigate the matter U/s.156(3) of Cr.P.C. I have perused the complaint. I do not see any reason why order passed by the Magistrate and which was confirmed by the Sessions Court, should be interfered with at this stage under Article 227 of Constitution of India. Petitioner can always offer his explanation to the Investigating Officer and if his explanation is accepted, Investigating Officer, accordingly, can submit his report to the Magistrate. Writ Petitions, in my view, have been filed prematurely since it is possible that after the investigation, a negative report may be submitted by the police. Hence, no merit in the submissions made by the leaned counsel for the Petitioner. Writ Petitions are dismissed accordingly.

5. It is clarified that the Magistrate or the investigating agency may be not be influenced by any observations made by this Court while dismissing these Writ Petitions.

V.M. KANADE, J.